MONTANA LEGISLATIVE HISTORY

Chapter 586 19 79

Bill H 489 S _____ Original bill & history ✓ C

H. Committee on Agriculture		S. Committee on Agriculture	
Hearing Date(s) refered to	C	Hearing Date(s) 3-2	✓ C
Water 7/1	C	_____	___ C
2-16	✓ C	_____	___ C
_____	___ C	_____	___ C
Date Out _____	___ C		

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

CHAPTER NO. 586

HOUSE BILL NO. 489

INTRODUCED BY BENGTSON

IN THE HOUSE

January 31, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
February 7, 1979	Rereferred to Select Committee on Water.
February 16, 1979	Committee recommend bill do pass. Report adopted.
February 17, 1979	Second reading, do pass as amended.
February 19, 1979	Correctly engrossed.
February 20, 1979	Third reading, passed. Transmitted to second house.

IN THE SENATE

February 21, 1979	Introduced and referred to Committee on Agriculture, Livestock, and Irrigation.
March 3, 1979	Committee recommend bill be concurred in. Report adopted.
March 6, 1979	Second reading, concurred in.
March 8, 1979	Third reading, concurred in.

IN THE HOUSE

March 9, 1979	Returned to second house. Concurred in. Sent to enrolling.
March 19, 1979	Correctly enrolled.

March 19, 1979	Signed by President.
	Signed by Speaker.
March 20, 1979	Delivered to Governor.
March 26, 1979	Returned from Governor with recommended amendments.
	On motion, Governor's amendments placed on second reading for the 72nd Legislative Day.
March 29, 1979	Second reading, Governor's recommended amendments adopted.
March 30, 1979	Third reading, Governor's recommended amendments adopted.
	Transmitted to Senate.

IN THE SENATE

March 31, 1979	Governor's recommendation for amendments submitted to the Senate.
April 2, 1979	Committee of the Whole recommend Senate adopt Governor's amendments as amended.
April 3, 1979	On third reading, Governor's amendments adopted. Transmitted to House.

IN THE HOUSE

April 4, 1979	Returned from second house. Sent to enrolling.
	Reported correctly enrolled.

LC 0684/01

HOUSE BILL NO. 489

INTRODUCED BY Bengtson

A BILL FOR AN ACT ENTITLED: "AN ACT SETTING A MINIMUM AND MAXIMUM AMOUNT, FROM $5 TO $25, AN IRRIGATION DISTRICT MAY CHARGE AGAINST A SEPARATELY OWNED TRACT OF LAND FOR AN ANNUAL FEE; AMENDING SECTIONS 85-7-2103 AND 85-7-2104, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 85-7-2103, MCA, is amended to read:

"85-7-2103. All irrigable lands chargeable alike. (1) All irrigable lands in each irrigation district, except such lands that are included within the district because of the exchange or substitution of water under the provisions of 85-7-1912, shall pay at the same rate for all purposes for which the lands are charged, except as otherwise provided by law. There may be a ~~minimum~~ charge of $5 to $25 against each separately owned tract of land regardless of its size, as provided in 85-7-2104. Whenever water used for the irrigation of any lands within an irrigation district is obtained by pumping to different elevations, the cost of maintenance, operation, and pumping to each separate elevation shall be apportioned and levied upon the lands lying under the ditch or ditches running from that particular elevation, in such manner as may be determined fair and equitable by the board of commissioners after considering the facts in each case. This apportionment shall be made by the board of commissioners and included each year in the assessment provided for by 85-7-2104.

(2) The amount of the assessment for maintenance, operation, and pumping of water to each separate elevation, whenever there are different elevations, shall be determined by the board of commissioners in such manner and upon such notice to the persons interested in the district as the board in its rules may provide. Whenever a contract has been made with the United States, the lands within the district, whether originally included or later annexed to the district, shall pay in accordance with the federal reclamation laws and the public notices, orders, and regulations issued thereunder and in compliance with any contracts made by the United States with the owners of the lands and in compliance with the contract between the districts and the United States. Whenever the works necessary for the completed project are constructed progressively over a period of years and whenever a portion of the lands within the district are or can be irrigated 1 year or more before the completion of the entire project, those lands so irrigated or that can be so irrigated through the built portion of the project shall pay for the cost of operating that portion of the project serving them with

irrigation water and also shall pay such portion of the interest charges as its irrigable area bears to the irrigable area of the entire project. Whenever lands have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the district, the amounts payable shall be equitably apportioned."

Section 2. Section 85-7-2104, MCA, is amended to read:

"85-7-2104. Annual tax levy -- apportionment when tracts divided. (1) On or before the second Monday in July each year, the board of commissioners of each irrigation district organized under parts 1 and 15 shall ascertain the total amount required to be raised in that year for the general administrative expenses of the district, including the cost of maintenance and repairs, and the total amount to be raised that year for interest on and principal of the outstanding bonded or other indebtedness of the district, including any indebtedness incurred under any contract between the district and the United States, accompanying which bonds of the district have not been deposited with the United States as provided in 85-7-1906. The board shall levy, against each 40-acre tract or fractional lot, as designated by the United States public survey, or platted lot, if land is subdivided in lots and blocks (or where land shall be owned in less than 40-acre tracts or in less than the platted lot, then against each such tract) of land in

the district, that portion of the respective total amounts so to be raised which the total irrigable area of any such tract bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district shall be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided. The board of commissioners may make a ~~minimum~~ charge of $5 to $25 against each separately owned tract of land, regardless of its size.

(2) In the event that the ownership of any such 40-acre tract or other subdivision of land in the district shall be divided after a special tax or assessment against the same has been levied, each or either of the owners of such tract or subdivisions shall be entitled to have such special tax or assessment equitably apportioned to and against said divisions of such tract or subdivisions, so that each owner shall be enabled to pay such special tax or assessment against his portion of such tract or subdivision and have the same discharged from the lien thereof. In no event shall the charge against any separately owned tract of land be less than $5."

-End-

SELECT WATER COMMITTEE

46th Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
HB 230	TO PROVIDE THAT THE SLURRY TRANSPORT OF COAL IS NOT A BENEFICIAL USE OF WATER.	1-17-79	Kemmis	2-16-79	Do Pass	2-16-79
SB 40	TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO WATER USE.	1-22-79	Boylan	3-9-79	Be Concurred In	3-9-79
HB 489	SETTING A MINIMUM AND MAXIMUM AMOUNT, FROM $5 TO $25, AND IRRIGATION DISTRICT MAY CHARGE AGAINST A SEPARATELY OWNED TRACT OF LAND FOR AN ANNUAL FEE.	2-8-79	Bengtson	2-16-79	Do Pass	2-16-79
HB 615	PROHIBIT CONSTRUCTION OF BUILDINGS WITHIN 25' OF DITCHES OR CANALS USED FOR IRRIGATION, OTHER LAWFUL DOMESTIC OR COMMERCIAL PURPOSE, OR FOR CARRYING WASTE WATER AND PROVIDING FOR THE PAYMENT OF COSTS AND ATTORNEYS' FEES IN ACTIONS TO ENFORCE THIS ACT.	2-8-79	Sivertsen	2-16-79	Do Pass	2-17-79
SB 76	TO ADJUDICATE CLAIMS OF EXISTING WATER RIGHTS IN MONTANA.	2-8-79	Boylan	Joint Hearing 1-19-79	Subcommittee 3-29-79 Substitute Bill Concurred In	4-5-79
HB 717	DIRECTING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO DISPOSE OF THE DALY DITCH WATER PROJECT; TO CANCEL AND WRITE OFF ACCOUNTS RECEIVABLE ON THE DALY DITCH WATER PROJECT.	2-12-79	Bardanove	2-16-79	Do Pass	2-17-79

HOUSE SELECT COMMITTEE ON WATER

February 16, 1979

The meeting was called to order by Chairman Day at 11:35 a.m. with all members present except Representative Hershel Robbins.

HOUSE BILL NO. 615

REPRESENTATIVE ROBERT SIVERTSEN, Chief Sponsor, stated that this bill would address the problems that are occurring as we see urban subdivisions expanding. People are building up around canals and ditches that are being used for irrigation. This bill will prohibit construction of buildings within 25 feet of ditches or canals used for irrigation.

He concluded by submitting amendments to the bill. (amendments attached)

PROPONENTS:

ED LENHARDT, Big Ditch and High Ditch Company, stated that he lived west of Billings. "The problems we have in our area have come about from progress. At the time sales are made on farm lands for new residences, the people purchasing the ground and the realtor's are unaware of where the ditches go; or what type of equipment it takes to maintain a particular ditch. In many cases the new owners will build fences, houses, garages, bridges, or plant trees and shrubs too close to the waters edge, preventing the farmer or ditch company from using whatever modern day equipment it takes to maintain the ditch in a reasonable manner. We are bound by law to control and use this water in these canals and ditches. We can be liable if we run water on an innocent party due to negligent care or maintenance of a canal or ditch. This bill will provide for a clear right-of-way. (complete testimony attached)

ZACK STEVENS, representating Montana Farm Bureau, Montana Farmers Union, and WIFE, rose in full support of the bill.

ROBERT ELLIS, Helena Valley Irrigation District and KEN FINLEY, Lockwood Irrigation District, rose in full support of the bill.

REPRESENTATIVE SIVERTSEN closed by stating that he hoped the committee would give this bill favorable consideration.

Questions were asked by the committee and the hearing on HB 615 was closed.

HOUSE BILL NO. 489

REPRESENTATIVE ESTHER BENGTSON, Chief Sponsor, introduced the bill by stating that this bill had been a request made by the Lockwood Irrigation District in Billings. Other districts have the same problems. The law presently states that an irrigation district may charge a minimum charge of $5 against a separately owned tract of land for an annual fee. This bill will allow for a $25 minimum charge. If the districts are not allowed to raise their rates they will have to shut down. She concluded by submitting an amendment to allow for those people unable to receive water, a minimum charge of not more than $5. (amendment attache

PROPONENTS:

KENNETH FINLEY, Lockwood Irrigation District, stated that these ditches and canals had been built 15 years ago and now there are subdivisions and homes in the area. "We can not supply the lots with water for this small of a fee." He concluded by stating that in some areas of the subdivision we can not even get water.

ROBERT ELLIS, Helena Valley Irrigation District, stated that the added charge would help cover the added expenses from the people that have the water turned on Friday and off Sunday, causing our ditch riders to have to work all week-end.

REPRESENTATIVE BENGTSON closed by stating that the board of commissioner will determine the rate and they will not charge more than necessary and will hold the rates at a $25 maximum.

Questions were asked by the committee and the hearing on HB 489 was closed.

HOUSE BILL NO. 230

REPRESENTATIVE DANIEL KEMMIS, Chief Sponsor, stated that this bill is amending Montana law relating to slurry of coal by striking: "A use of water for slurry to export coal from Montana is not a beneficial use. Slurry is a mixture of water and insoluble matter." The definition of water is defined the same way later in the bill. "My feeling is that the law would not sustain a court challenge. Some people may say we are discriminating against interstate commerce." He concluded by submitting the attached amendments, which is a different way to state the use of water for slurry.

PROPONENTS:

ZACK STEVENS, Montana Farm Bureau, and JIM STEVENS, Montana Farmers Union, stated that they were opposed to the use of water for coal slurry in Montana.

CHARLETTE EASTER, EIC, stated that the use of water for transporting slurry is a waste of our most precious resource. The BLM statistics show that one ton of water is used in the Black Mesa Pipeline in Arizona to move one ton of coal. A 1000 mile slurry pipeline would use 20,000 acre feet of water per year. (attached is complete testimony

RONALD WATERMAN, Montana Railroad Association, stated that he thought the present stress had an adverse effect on our water. Present technology shows that slurry can not be removed, it has to be treated to become usable water.

K.D. CLARK, United Transportation Union, rose in support of the bill.

EXECUTIVE SESSION:

HOUSE BILL NO. 230

Representative Hand moved, DO PASS. The motion was carried unanimously.

HOUSE BILL NO. 489

Representative Hand moved, DO NOT PASS. The motion failed 4 to 3, the vote is reversed and the bill passes. Opposed: Curtiss, Day, Dassing, Scully

The meeting was adjourned at 2:25 p.m.

William M. Day, Chairman

Judy J. Mook, Secretary

word "who" insert "knowingly". Motion carried. Senator Aklestad voting No. Senator Hager absent.

CONSIDERATION OF HOUSE BILL 489: Representative Bengston from district #59, had introduced this bill at the request of some of her constituents. The development of subdivisions are causing many irrigation districts problems. This bill allows them some flexibility in charging rates. At the present time the rates are not high enough to cover the cost of delivery and maintenance. This changes the rates from a minimum of $5 to a maximum of $25. If they are not allowed to raise them the irrigation district may cease to exist. If a tract of land within a district is not able to get water they would pay only $5.

Ken Finley, Lockwood Irrigation District, said when the law was enacted there were not many subdivision developments. The maximum fee under this bill would be $25 a year.

R. A. Ellis, from Helena Valley Irrigation District, said they supported the bill.

There were no opponents.

During discussion Representative Bengston said the reason for the $5 minimum on land that couldn't receive water was that they are still in the district and irrigation is still available.

DISPOSITION OF HOUSE BILL 489: Senator Boylan moved that House Bill 489 BE CONCURRED IN. Motion carried. Senator Hager absent. Senator Boylan will carry the bill.

CONSIDERATION OF HOUSE BILL 278: Les Graham from the Department of Livestock, said the bill had been introduced at the request of the department. It excludes from the change of ownership inspection a family ranching entity. If the livestock remains on the premises no inspection would be needed.

DISPOSITION OF HOUSE BILL 278: Senator Nelson moved that House Bill 278 BE CONCURRED IN. Motion carried. Senator Nelson will carry the bill.

Senator Hager was present at this time.

CONSIDERATION OF HOUSE BILL 101: Representative Vincent, district #78 had introduced this bill. He submitted to the committee several articles on aliens buying agricultural land. Attachment #1. He stated that we do not know a great deal about foreign land ownership in the state. There are about 200,000 acres owned by non-resident aliens. He stated that there was a difference between alien and non-resident alien. An alien might not be a U.S. citizen but lives in the U.S. A non-resident alien is a person living outstide of the U.S. He felt if the rate of foreign land ownership increased at a rapid pace the economical and political control of Montana could be in jeopardy. It could create problems for the ranchers and

Date 3-2

ROLL CALL

AGRICULTURE COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. KOLSTAD	✓		
SEN. AKLESTAD	✓		
SEN. BOYLAN	✓		
SEN. CONOVER	✓		
SEN. GRAHAM	✓		
SEN. HAGER	✓ 1:30		
SEN. NELSON	✓		
SEN. GALT, Chairman	✓		

Each Day Attach to Minutes.

SENATE

DATE 3-2

COMMITTEE ON AGRICULTURE

H.B. 489, 101 VISITORS' REGISTER 278, 590

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppo
Les Graham	Mont Dept of Livestock	278	✓	
W. Sittich Jr.	SELF	278	✓	
Ken Fanning	Lockwood Irrigation Dist.	489	✓	
Bill Fisher	Agricultural Preservation	HB 101		✓
Leroy Murphy	NFO Farmers Union	HB 101	✓	
Tim Mollog	Myself	HB 101	✓	
Bill Britzius	Myself & Montana Assn. of Realtors	HB 101		✓
Roy Bronson	Mt. Dept of Agr			
Jack Stevens	Farm Bureau	101		✓
J Mansteigen	Mont Stockgrowers Assoc	101		✓
Alice Ingalls	Mont. Cattlewomen Assn	101		X
STEPHEN C. SOPPA	SELF	101		✓
Jim Mockler	Mont. Coal Council	101		✓
James T. Harrison Jr	Shell Oil	101		✓
Tom Hoegel	Mont Realtors Assn	101		✓

(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

March 6 19 79

MR. President

We, your committee on Agriculture, Livestock & Irrigation

having had under consideration House Bill No. 489

Respectfully report as follows: That House Bill No. 489

BE CONCURRED IN

DO PASS.

SENATOR JACK E. GALT, Chairman.

STATE PUB. CO.
Helena, Mont.

HOUSE BILL NO. 489

INTRODUCED BY BENGTSON

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Final Printing
Gov. amendments - Dated 3/29 enclosed

the built portion of the project shall pay for the cost of operating that portion of the project serving them with irrigation water and also shall pay such portion of the interest charges as its irrigable area bears to the irrigable area of the entire project. Whenever lands have appurtenant thereto a partial water right or partial rights in a system of irrigation other than that of the district, the amounts payable shall be equitably apportioned."

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shall be owned in less than 40-acre tracts or in less than the platted lot, then against each such tract) of land in the district, that portion of the respective total amounts so to be raised which the total irrigable area of any such tract bears to the total irrigable area of the lands in the district, so that each acre of irrigable land in the district shall be assessed and required to pay the same amount as every other acre of irrigable land therein, unless otherwise specifically provided. The board of commissioners may make a ~~minimum~~ charge of $5 to $25 against each separately owned tract of land, regardless of its size. A HOWEVER, A SEPARATELY OWNED TRACT OF LAND OF 1 ACRE OR LESS AND UNABLE TO RECEIVE WATER MAY BE CHARGED NOT MORE THAN THE $5 MINIMUM.

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land be less than $5. ~~a~~ HOWEVER, A SEPARATELY OWNED TRACT OF LAND OF 1 ACRE OR LESS AND UNABLE TO RECEIVE WATER MAY BE CHARGED NOT MORE THAN THE $5 MINIMUM."

-End-